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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.20 OF 2007
IN
INSOLVENCY NOTICE NO.N/263 OF 2006

Re.: .
Nitin Arvind Hake & Ors. ...Judgment Debtors

Ex-parte:
The Goregaon Co-operative .
Urban Bank Ltd. ...Judgment Creditor

Ms.Pooja M. Gaonkar, Advocate, for the Judgment Creditor.

Mr.Jayant Gaikwad, Advocate, for the Judgment Debtor.

CORAM : ABHAY S. OKA, J.
DATED : 16TH OCTOBER, 2007.

P.C.:

1. Heard the learned Counsel appearing for the judgment debtor in support of the Notice of Motion. The learned Counsel for the judgment creditor states that she has returned the papers to the judgment creditor.

2. This Notice of Motion has been taken out for setting aside insolvency notice issued against the judgment-debtors. The said insolvency notice has been issued on the basis of non-compliance with a recovery

certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960.

2. In view of the decision of this Court dated 4th September, 2007 in Notice of Motion No.40 of 2007 (Re.Kishore K. Mehta) and other connected matters, insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 is not maintainable on the basis of the recovery certificate issued under Section 101 of the said Act of 1960. Hence the Notice of Motion must succeed.

3. The Notice of Motion is, therefore, made absolute by directing that the insolvency notice is quashed and set aside.

[ABHAY S. OKA, J.]